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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,413	01/25/2002	Anthony G. Martin	50642.00022	8375
30256	7590	03/24/2005	EXAMINER	
SQUIRE, SANDERS & DEMPSEY L.L.P				NGUYEN, HAI V
600 HANSEN WAY				ART UNIT
PALO ALTO, CA 94304-1043				PAPER NUMBER
				2142

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/057,413	MARTIN ET AL.
Examiner	Art Unit	
Hai V. Nguyen	2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 25 January 2002.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-48 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-48 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>10/25/04; 01/23/03</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

1. This Office Action is in response to the application filed on 25 January 2002.
2. Claims 1-48 are presented for examination.

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 8-14, 30-36, 46 are rejected under 35 U.S.C. 101 because the claimed invention is non-functional descriptive material and is directed to non-statutory subject matter. Claims 8, 30, 46 describe the “logic” element, which when read in light of specification amounts to nothing more than computer software void of a computer readable medium. See MPEP 2106(IV)(B)(1).
5. Claims 15-21, 37-43, 47 are rejected under 35 U.S.C. 101 because the claims recite “the computer program product comprising computer code” which is NOT equivalent to the computer readable medium. The computer program product is the product pro se. See MPEP 2106(IV)(B)(1).

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102(e) that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-48 are rejected under 35 U.S.C. 102(e) as being anticipated by **Chen et al.** U.S patent # **6,857,024 B1**.

8. As to claim 1, Chen teaches substantially the invention as claimed, including a method for presenting information, comprising:

collecting at a client information about a user (*Chen, the internet device 14 prompts the user to provide a wide variety of information for generating a consumer profile, (col. 10, lines 35-35-36)*);

transmitting via a network the collected information from the client to a location (*Chen, Fig. 1, database server 30*) for generating a user profile for the user based on the collected information, wherein content is selected for the user based on the generated user profile (*Chen, the code transmission/receipt module 80 of the Internet device 14 sends the consumer code to the previously stored user' consumer profile*).

*Accordingly, the Internet device 14 connects to the server of the online radio programming that is directed toward the user's interests, (col. 13, lines 40-45))*;

*receiving the content at the client via the network (*Chen, receiving information and/or ads from the server system, Abstract*); and*

*presenting the content to the user at the client (*Chen, playing stored ads, Fig. 15, item 610; Fig. 16, item 740,; Fig. 17, item 830; Fig. 18, item 925*).*

9. As to claim 2, Chen teaches, wherein the information about the user includes information relating to network utilization behaviors (*Chen, network traffic, bandwidth availability*) and attributes (*Fig. 4*) of the user (*Chen, the flow controller 82 can control*

*the flow of advertisement information uploaded to the Internet device 14 and affect the efficiency of transmitting information, (col. 9, lines 42-54; col. 14, lines 6-67)).*

10. As to claim 3, Chen teaches, wherein the user profile of the user includes model generated information (*Chen, categorized information and/or advertisement information*) (*Chen, in Fig. 4, showing the different models and/or groups based on age group, income levels, hobby or interest*).

11. As to claim 4, Chen teaches, wherein the content includes one or more rules (*Chen, categories*) for controlling the presentment of the content to the user at the client (*Chen, the user makes the selection of presenting the advertisement information, (Fig. 12, item 310; col. 11, lines 3-38)*).

12. As to claim 5, Chen teaches, wherein the information transmitted to the location includes an identifier (*Chen, consumer code or number*), and wherein at least a portion of the content is selected based on the identifier (*Chen, Fig. 4, ads are selected based on consumer code*).

13. As to claim 6, Chen teaches, wherein a fee is generated when the content is selected, and wherein the fee is charged to a party associated with the selected content (*Chen, the advertisers and on-line radio stations using this service would be charged by the Internet telephony service provider for advertising or on-line radio time. Accordingly, the user is assessed lower per-minute toll charges, or no charges, by the Internet telephony service provider to place Internet telephony calls, (col. 17, lines 50-57)*).

14. As to claim 7, Chen teaches, wherein the user accesses sites coupled to the network utilizing a first application (*Chen, telephone application*) hosted by the client,

and wherein the content is presented utilizing a second application (*on-line radio stations or advertisement application*) hosted by the client (*Chen, Figs. 1, 5*).

15. Claims 8-14 are similar limitations of claims 1-7; therefore, they are rejected under the same rationale as in claims 1-7.

16. Claims 15-21 are similar limitations of claims 1-7; therefore, they are rejected under the same rationale as in claims 1-7.

17. Claim 22 is corresponding system in means plus function as claim 1; therefore, it is rejected under the same rationale as in claim 1.

18. Claims 23-29 are similar limitations of claims 1-7; therefore, they are rejected under the same rationale as in claims 1-7.

19. Claims 30-36 are similar limitations of claims 1-7; therefore, they are rejected under the same rationale as in claims 1-7.

20. Claims 37-43 are similar limitations of claims 1-7; therefore, they are rejected under the same rationale as in claims 1-7.

21. Claim 44 is corresponding system in means plus function as in claim 23; therefore, it is rejected under the same rationale as in claim 23.

22. Claim 45 is similar limitations of claims 1-5, 7; therefore, it is rejected under the same rationale as in claim 1-5, 7.

23. Claim 46 is similar limitations of claim 45; therefore, it is rejected under the same rationale as in claim 45.

24. Claim 47 is similar limitations of claim 45; therefore, it is rejected under the same rationale as in claim 45.

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25. Claim 48 is similar limitations of claim 45; therefore, it is rejected under the same rationale as in claim 45.

26. Further references of interest are cited on Form PTO-892, which is an attachment to this action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai V. Nguyen whose telephone number is 571-272-3901. The examiner can normally be reached on 6:00-3:30 Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Harvey can be reached on 571-272-3896. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hai V. Nguyen  
Examiner  
Art Unit 2142

*[Handwritten Signature]*

*Jack Harvey*  
JACK HARVEY  
PRIMARY EXAMINER  
SEARCHER/PRIMARY EXAMINER